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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,267	01/22/2001	Raphael Angeline Ceulemans	CM1882	5069
27752 7590 12/23/2008 THE PROCTER & GAMBLE COMPANY Global Legal Department - IP Sycamore Building - 4th Floor 299 East Sixth Street CINCINNATI, OH 45202				
EXAMINER DEL COTTO, GREGORY R				
ART UNIT 1796		PAPER NUMBER		
MAIL DATE 12/23/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/744,267

Applicant(s)

CEULEMANS ET AL.

Examiner

Gregory R. Del Cotto

Art Unit

1796

Period for Reply
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed 12/16/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-6, 8 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-6, 8 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. Claims 1, 4-6, 8, and 15-20 are pending. Claims 1, 3, 7, and 9-14 have been canceled. Applicant's arguments and amendments filed 12/16/08 have been entered.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/16/08 has been entered.

Objections/Rejections Withdrawn

The following objections/rejections as set forth in the Office action mailed 9/19/08 have been withdrawn:

None.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 4-6, 8, 15-17, 19, and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by WO98/12295 in view of Klewsaat (US 4,888,119).

'295 teaches a composition comprising a dye fixing agent and a specific amino-functional polymer, said composition providing an improved color care on fabrics upon laundry treatments. See Abstract. Suitable dye fixing agents are cationic and are based on various quaternized or otherwise cationically charged organic nitrogen compounds. These agents include Sandofix TPS, Rewin SRF, Rewin SRF_O, Rewin DWR, Tinofix FRD, etc., and they may be used in the compositions in amounts from 0.001% to 10% by weight. See page 5, lines 1-15. The amino functional polymers have the same general formula as recited by the instant claims. See page 6, line 10 to page 7, line 30. The amino functional polymers are present in amounts preferably from 0.5% to 5% by weight of the composition. See page 22, lines 15-25. Also, single long chain alkyl cationic surfactants may be used which have the same general formula as

recited by instant claim 2. See page 31, lines 10-35. Surfactant concentration aids may also be used in the composition which helps achieving the desired finished product viscosity as well as stabilising the finished product upon storage. Surfactant concentration aids are typically selected from single long chain alkyl cationic surfactants, nonionic alkoxyated surfactants, etc. See page 31, lines 1-10. Additionally, a solvent such as propanol, isopropanol, dihydric-, trihydric-, and higher polyhydric alcohol may be used in the composition. See page 35, lines 10-20. Note that, the Examiner asserts that isopropanol or propanol would fall within the scope of instant claims 16, 17, and 19 as an ease of formulation solvent and mono-ol as recited by instant claim 17.

Also, a polyolefin dispersion may be used in the compositions which provide anti-wrinkles and improved water absorbency benefits to the fabrics. For ease of formulation, the polyolefin is preferably introduced as a suspension or an emulsion of polyolefin dispersed by use of an emulsifying agent. The polyolefin suspension or emulsion preferably has from 1% to 50% by weight of polyolefin in the emulsion. When an emulsion is employed, the emulsifier may be any suitable emulsification or suspending agent and preferred emulsifiers include the ethoxylated fatty amine surfactants. The polyolefin is dispersed with the emulsifier or suspending agent in a ratio of emulsifier to polyolefin of from 1:10 to 3:1. Preferably the emulsion includes from 0.1% to 50% by weight of emulsifier in the polyolefin emulsion. The compositions of the present invention contain from 0.01 to 8% by weight of the dispersible polyolefin. See page 22, line 35 to page 24, line 8.

Note that, the Examiner asserts that, for example, if the ratio of emulsifier to polyolefin is 1:1 in the composition taught by '295, if the polyolefin is present in 1% by weight, then the emulsifier such as alkoxyated fatty amine surfactant would also be present in 1% by weight.

'295 does not teach the use of a polyoxyalkylene alkyl amine surface active agent or a composition containing a nitrogen containing dye fixing agent, a polyoxyalkylene alkyl amine surface active agent, a polyamino-functional polymer, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Klewsaat teaches an emulsion of cationic/anionic surfactant complex which is provided form addition to the wash water in the wash cycle operation of automatic washing machines, to make washed and dried laundry softer to the touch and static-free. See Abstract. Emulsifying agents may be used which are capable of emulsifying the cationic/anionic surfactant to produce a stable emulsion which will not settle out on storage, and in which the complex will not be adversely affected. Suitable emulsifying agents include ethoxylated higher amines having 12 to 18 carbon atoms in the alkyl group and 5 to 50 moles of ethylene oxide per mole. See column 4, lines 20-60.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use an alkyl ethoxylated amine in the composition taught by '295, with a reasonable expectation of success, because Klewsaat teaches the use of alkyl ethoxylated amines as emulsifying agents for providing a stable composition in a similar formulation and further, '295 teaches the use of ethoxylated fatty amines as

emulsifying agents in general. Note that, the Examiner asserts that the teachings of '295 in combination with Klewsaat suggests compositions having the same ratio of scum reducing agent to the sum of polyamino-functional polymer and dye fixing agent as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a nitrogen containing dye fixing agent, a polyoxyalkylene alkyl amine surface active agent, a polyamino-functional polymer, and the other requisite components of the composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '295 in combination with Klewkaat suggest a composition containing nitrogen containing dye fixing agent, a polyoxyalkylene alkyl amine surface active agent, a polyamino-functional polymer, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Note that, the Examiner asserts that the teachings '265 in combination with Klewsaat suggests compositions which are clear as recited by instant claim 20 because '265 in combination with Klewsaat suggests compositions containing the same components in the same amounts as recited by the instant claims.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO98/12295 in view of Klewsaat (US 4,888,119) as applied to claims 1, 4-6, 8, 15, 16, 19, and 20 above, and further in view of WO97/03169.

'295 and Klewsaat are relied upon as set forth above. However, neither reference teaches the use of a solvent such as 1,2-hexanediol in addition to the other requisite components of the composition as recited by the instant claims.

'169 teaches aqueous fabric softener compositions containing principal solvents, especially mono-ol and diol principal solvents. See Abstract. Specifically, '169 teaches textile softening compositions for use in the rinse cycle of a textile laundering operation to provide excellent fabric-softening/static control benefits, the compositions being characterized by reduced staining of fabric, excellent water dispersibility, rewettability, and/or storage and viscosity stability at sub-normal temperatures. See page 1, lines 10-20. Suitable principal solvents include propanol, 1,2-hexanediol, etc.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use 1,2-hexanediol in the composition taught by '295, with a reasonable expectation of success, because '169 teaches the equivalence of propanol to 1,2-hexanediol in a similar fabric treatment composition and further, '295 teaches the use of propanol.

Response to Arguments

With respect to the rejection of the instant claims under 35 USC 103 using '295 in view of Klewsaat, Applicant states that this combination of references do not disclose the specific ratio of scum reducing agents to the sum of the polyamino-functional polymer and the dye fixing agent as recited by the instant claims. Additionally, Applicant states that the references fail to teach or suggest the additional element of an ease of formulation solvent. In response, note that, the Examiner asserts that '295 in

combination with Klewsaat suggest the ratio of scum reducing agents to the sum of the polyamino-functional polymer and the dye fixing agent as recited by the instant claims. For instance, as set forth above, according to '295, if the ratio of emulsifier to polyolefin is 1:1 in the composition taught by '295, if the polyolefin is present in 1% by weight, then the emulsifier such as alkoxyated fatty amine surfactant would also be present in 1% by weight. So assuming 1% by weight alkoxyated fatty amine and a sum of the polyamino-functional polymer and the dye fixing agent of 10%, a ratio of 0.1:1 would be obtained which would fall within the scope of the instant claims. Furthermore, the Examiner asserts that '295 does teach the use of solvents such as propanol and that propanol would fall within the scope of the "ease of formulation solvent" as recited by the instant claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.

Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory R. Del Cotto/
Primary Examiner, Art Unit 1796

/G. R. D./
September 15, 2008